IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

THURSDAY, THE 16TH AUGUST 2007 / 25TH SRAVANA 1929

WP(C).No. 24710 of 2007(N)

PETITIONER:

BABU GEORGE,
PUNCHAKKUNNEL HOUSE, MONIPPALLY P.O.,
KOTTAYAM DISTRICT.

BY ADV. SRI.P.BABU KUMAR

RESPONDENTS:

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1. **THE FEDERAL BANK LTD.,**
   REP. BY ITS GENERAL MANAGER, HEAD OFFICE, ALUVA.

2. **THE DEPUTY GENERAL MANAGER,**
   THE FEDERAL BANK LTD., REGIONAL OFFICE,
   THEKKUMKAL BUILDING, T.B. ROAD, KOTTAYAM.

3. **SENIOR MANAGER,**
   THE FEDERAL BANK LTD., KURAVILANGADU BRANCH.

BY ADV. SRI. PETER THARAKAN for R1 to R3
SRI.GEORGE VARGHESE,SC-FEDERAL BANK

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 16/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

THOTTATHIL B. RADHAKRISHNAN, J.

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WP(C).No.24710 of 2007-N

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Dated this the 16th day of August, 2007.

JUDGMENT

Petitioner faces proceedings under the SARFAESI Act on account of different loan translations. It includes a housing loan and certain other loans availed in connection with agricultural operations of cash crops. The bank earlier moved the Debts Recovery Tribunal and such proceedings are pending there. The transactions are not disputed as such. One of the grounds on which proceedings under the SARFAESI Act is opposed is that proceedings under that Act cannot extend to agricultural lands. The learned counsel for the bank points out that no agricultural land is being proceeded against and the proposed action is against the available crops in the form of rubber. Obviously, that does not fall within the term

"agricultural land" and such crops would only be movables which is covered by a hypothecation and therefore, within the legislative competence of the Union which has brought the SARFAESI Act. If the petitioner has specific grievances by way of technical objections to the procedure adopted, the remedy lies before the DRT under the SARFAESI Act.

2. Having heard counsel for parties, I find no legal infirmity or jurisdictional error in the impugned proceedings.

Having heard the learned counsel for the petitioner and the learned counsel for the bank, on the totality of the facts and circumstances, including the amount of loan involved and the growth of the outstandings with interest being added on, it is directed that if the petitioner deposits an amount of Rs.3 lakhs on or before the 7th September, 2007 and continues to deposit at the rate of Rs.1 lakh per month payable on or before the 27th of every month, commencing from October, 2007 and thereby wipes off the entire outstandings, including

all accruals and expenses, the impugned action would be closed. If there is any default in depositing any of the instalments as afore-directed, the benefits of this judgment shall stand recalled automatically and the bank will be at liberty to proceed with further action without any further notice and from stage at which it rests. It is further clarified that this judgment will not affect the proceedings pending before the DRT.

THOTTATHIL B. RADHAKRISHNAN,
JUDGE.

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